

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

DENNIS MONTGOMERY, et al., )  
                                )  
                                )  
Plaintiff(s),                 )  
                                )  
vs.                            )  
                                )  
ETREPPID TECHNOLOGIES,     )  
et al.,                      )  
                                )  
Defendant(s).                )  
                                )

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3:06-CV-00056-PMP-VPC

**MINUTES OF PROCEEDINGS**

DATED: January 22, 2008

CLERK US DISTRICT COURT  
DISTRICT OF NEVADA

DEPUTY

JAN 23 2008

PRESENT: THE HONORABLE VALERIE P. COOKE, MAGISTRATE JUDGE  
 Deputy Clerk: Lisa Mann Court Reporter: FTR  
 Counsel for Plaintiff(s): Mark Gunderson, Deborah Klar and (Telephonically) Tuneen Chisolm  
 Counsel for Defendant(s): Stephen Peek and Jerry Snyder  
 Counsel for Interested Party: Carlotta Wells, Raphael Gomez, and Michael Flynn

PROCEEDINGS: DISCOVERY STATUS CONFERENCE AND MOTIONS HEARING

10:34 a.m. Court convenes.

The Court addresses the parties regarding the purpose of this monthly discovery status conference.

On January 16, 2008, the defendants (“eTreppid parties”) filed a discovery status report (#401) and on January 17, 2008, the plaintiffs (“Montgomery parties”) filed a discovery status report (#404).

The Court and the parties discuss outstanding discovery issues in this action.

Having heard from the parties and good cause appearing, the Court finds as follows, with respect to outstanding discovery issues in this case:

**1) Meet and Confer regarding outstanding discovery:**

Ms. Chisolm, Mr. Snyder, and counsel for the United States shall meet and confer telephonically no later than **Thursday, January 31, 2008**, and address the following:

- a) To develop a briefing schedule regarding the attorney-client privilege and whether the privilege bars production of certain documents to the

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- b) To identify what documents can be put on disk format and how soon such production can be made,
- c) To confer with government counsel concerning their approval regarding document production produced in its native format.

The parties shall then submit a stipulation outlining their agreement no later than **Monday, February 4, 2008**.

**2) The Montgomery parties' outstanding discovery responses:**

The Montgomery parties have outstanding responses to the eTreppid parties' (a) first request for production of documents and (b) a second request for production of documents. The Montgomery parties shall respond to these document production requests no later than **Friday, January 25, 2008**. If a further dispute arises regarding this document production, the parties shall file simultaneous briefs no later than **Friday, February 15, 2008** by 5:00 p.m. P.S.T.

**3) The Montgomery parties' oral request for additional interrogatories:**

Ms. Chisolm makes an oral motion to increase the number of interrogatories to be propounded in this action. The Court directs that Ms. Chisolm and Mr. Snyder shall meet and confer in an attempt to reach an agreement regarding this request for additional interrogatories. The stipulation due **Monday, February 4, 2008**, shall also include their agreement on this issue.

The Court advises the parties that the first motion that shall be heard is the United States' motion for enforcement of protective order (#350).

Initially, the Court advises the parties that it has reviewed all the papers regarding this motion and finds that the Montgomery parties' motion to strike (#391) is DENIED.

The parties present their respective arguments regarding the facts and merits of the United States' motion for enforcement of protective order (#350).

12:10 p.m. Court recesses.

1:17 p.m. Court reconvenes.

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The parties continue to present their respective arguments regarding motion (#350).

Having heard from the parties and good cause appearing, the Court advises counsel that it shall take under submission the United States' motion for enforcement of protective order (#350).

2:01 p.m. Court recesses.

2:33 p.m. Court reconvenes.

The Court advises the parties that it shall first hear the Montgomery parties' motion to enforce right to inspection of records (#321) and will then hear the eTreppid parties' motion for sanctions (#343).

The Court reminds counsel that the Local Rules of Practice allow for the following briefing cycle on motions: 1) the motion; 2) the opposition; and 3) the reply. Documents styled as "objections to evidence" are not allowed, and counsel are cautioned not to file such papers in the future. To the extent counsel object to evidence, those objections may be included in points and authorities, subject to the page limitation prescribed by Local Rule 7-4. Counsel have leave to file declarations and affidavits separately.

Having heard from the parties and good cause appearing, the Court states for the record that the disposition of the Montgomery parties' motion to enforce right to inspection of records (#321) will not be dispositive of any claims or defenses between the parties.

IT IS ORDERED that Montgomery parties' motion to enforce right to inspection of records (#321) is GRANTED. The motion is not granted to allow a forensic inspection of records at this time; however, the Court directs Ms. Chislom and Mr. Snyder to meet and confer regarding the scope of the production sought by the motion (#321) and to do so under the same time frame as previously ordered regarding outstanding discovery. In the stipulation, due **February 4, 2008**, the parties shall report on what has been produced, what has not been produced, a time frame of how long it will take to complete this document production, and advise of the date and time a forensic inspection of the records can be accomplished.

The parties present their respective arguments regarding the facts and merits of the eTreppid parties' motion for sanctions (#343).

Having heard from the parties and good cause appearing, the Court finds that it shall take under submission, the eTreppid parties' motion for sanctions (#343).

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The Court notes for the record that it is aware of the additional pending motions in this action; however, shall not rule upon those today.

3:52 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: \_\_\_\_\_ /s/

Lisa Mann, Deputy Clerk

**ADDEDUM**

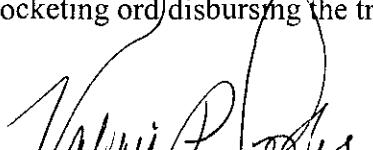
At the conclusion of the discovery status conference and motions hearing, counsel for the government requested a meeting with the Court and counsel for the parties regarding the transcript of this hearing.

Having heard from the United States' counsel, and with the concurrence of counsel for the parties,

IT IS ORDERED that an expedited transcript of the January 22, 2008 discovery status conference and motions hearing regarding the Montgomery parties' motion to enforce right to inspection of records (#321), eTreppid parties' motion for sanctions (#343), the United States' motion for enforcement of protective order (#350), and the Montgomery parties' motion to strike (#391) shall be prepared for the Court.

IT IS FURTHER ORDERED that the completed transcript shall then be forwarded to Raphael Gomez, Esq., at the United States Department of Justice, Civil Division, 20 Massachusetts Avenue, NW, Washington, DC 20530 for review prior to docketing and disbursing the transcript.

Dated this 22<sup>nd</sup> day of January, 2008.



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VALERIE P. COOKE  
U.S. MAGISTRATE JUDGE